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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Implementation of the Telecommunications Act of 1996:	)	CC Docket No. 96-115
	)	
Telecommunications Carriers' Use of Customer Proprietary	)	
Network Information and Other Customer Information	)	

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U S WEST, INC.'S REPLY COMMENTS

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SUMMARY

The FCC must construe Section 222 in light of Congress' professed deregulatory purpose and intent. That intent was to promote the public interest by creating a statutory framework that would allow for the rapid acceleration of advanced telecommunications and information technologies and services by the private sector. Congress' determination to undo the balkanization and decompartmentalization of the telecommunications industry strongly suggests that it would not have, through the mechanism of a privacy statute, re-introduced such balkanization through an information policy at odds with its overall intention.

Section 222 can reasonably be construed to allow for broad internal corporate use of CPNI. And, all sound public policy arguments support such use. As found both by the FCC and the courts, the public interest is advanced by the sharing of information in an integrated company. Such sharing is not, as certain commentors continue to argue, anticompetitive or market depressive but pro-competitive and market enhancing. Accordingly, the FCC should construe Section 222 with a view toward the maximization of information use and sharing, tempered only by those constraints absolutely necessary to protect consumer privacy.

A construction of Section 222 that would permit carriers to use CPNI in their possession to design and market integrated telecommunications service packages to interested consumers is clearly in the public interest. Those packages would include not only various telecommunications service components but ancillary non-telecommunications offerings, as well. Such construction would accommodate the abiding market demand for integrated service offerings and one-stop shopping. It would also allow a large number of carriers to continue operation in a business-as-usual mode. The combination would mean that for many carriers they could continue expending their energies where they produce the greatest return, on customer satisfaction, rather than communicating with their customers about a market situation that produces negligible privacy concerns.

Other carriers, those intent on using CPNI across a broad range of offerings and probably with affiliates,

could provide notifications to customers, either in the form of carrier-specific or industry-type communications, informing customers about the changes in the telecommunications industry, the passage of the 1996 Act, what information is in the possession of the carriers and how it is used. This notification should advise individuals that, if they prefer that CPNI about them not be used in accordance with the communication that they advise their carriers of that fact.

Such a model is consistent with past carrier practice, with Congressional enactments relating to other industries, with the expert recommendations of the NTIA and with sound regulatory, information and public policy. In no circumstances should customers be asked to affirmatively and in writing agree to the carrier's proposed information policy and practices. The overwhelming evidence and regulatory expertise on this matter makes clear that such customer written affirmations would not be forthcoming. The damage that would be done to carriers, either as a result of the depleted value of their commercial asset or the expense of attempting to secure something that predictably will not be secured without Herculean effort would be irreparable.

The better public policy is not to require carriers to divert their monetary and human resources pursuing a task with a minimal market return. Carriers should be permitted to address any privacy issues in the market in a fashion defined by their existing relationship with their customers and aligned with those customers' expectations.

Finally, no carrier should be exempt from the FCC's implementing rules under Section 222. Congress made a quite explicit choice to extend the requirements of the statute to "every" telecommunications carrier. That express intention should be realized in any resulting rules. In the area of privacy policy and protection, the notion of "forbearance" has no logical meaning. Thus, the notion should not find a receptive policy ear.

Nor should the FCC encumber some carriers with additional regulatory requirements simply because those requirements currently exist. To the extent that the existing Computer II/III rules involve specific markets (i.e., enhanced service and CPE), there is nothing to demonstrate that Congress intended more or greater competitive balancing be done with respect to these markets than the local exchange market, for example. Indeed, to the extent that the CPE and enhanced services markets are already extremely competitive, the more logical position would be that any pre-statutory obligations with respect to these markets would no longer be necessary.

Unless the FCC holds that the kinds of access restrictions imposed on the BOCs and GTE are necessary to protect consumer privacy, something that would be most unusual particularly in light of its tentative conclusion to the contrary, the BOCs and GTE should be relieved of both the requirement that they secure affirmative written consent from certain customers and that they maintain computerized, mechanical password id access restrictions. Such restrictions require constant database upkeep and maintenance and employee training, all to accommodate the decision of the smallest minority of U S WEST's customers -- those who, for some reason or another, want to "restrict" their CPNI. A carrier should be permitted the opportunity to decide whether or not such systems make sound economic and business sense. If they do not, the carrier's resources should be permitted to be expended on systems that better meet market and customer needs for the design and delivery of quality products and services.

With respect to SLI, U S WEST sees no reason for the FCC to insinuate itself to any great extent in the implementation of Section 222(e). For the most part, the provision is self-explanatory and does not require FCC interpretation or guidance. To the extent the FCC does become involved, however, U S WEST supports MCI that SLI is not imbued with the same kinds of sensitivity as CPNI. Thus, its use need not be contractually restricted. We also support CBT in its position that if a carrier does not designate a yellow pages heading at the time that service is established, then PAC information should be limited to a "residence/business indicator."

The FCC should frame a regulatory regime to implement Section 222 along the lines suggested herein. Such a framework has broad support across carrier entities and would manifestly be in the public interest.

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U S WEST, INC.'S REPLY COMMENTS

I. SECTION 222 SHOULD BE INTERPRETED TO PROMOTE CONGRESS' DEREGULATORY INTENT, WITH A FOCUS ON CONSUMER WELFARE, AND WITH A VIEW TOWARD THE PUBLIC INTEREST BENEFITS OF BROAD INFORMATION USE

In interpreting Section 222, the FCC can provide sound guidance without compromising the deregulatory thrust of the 1996 Act, customer expectations or appropriate competitive behavior. Given the range of reasonable interpretations, and the diversity of carriers to which it applies, any FCC-promulgated rules regarding Section 222 should be minimal[1] and guided by three overriding principles. First, in enacting the 1996 Act, Congress intended to establish a pro-competitive, deregulatory national policy to rapidly accelerate private sector deployment of advanced technologies and services.[2] To advance that intention, in its Section 222 interpretation, the FCC should minimize carrier burdens.[3] It should accede the Section is subject to a number of reasonable interpretations, and either allow carriers to pursue their own interpretations or adopt minimal regulatory requirements.

Second, Section 222 should be interpreted foremost with a view toward those whose "privacy" interests Congress was addressing, i.e., consumers of telecommunications service.[4] Within an existing business relation-

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1 For example, GTE's proposal that the FCC simply "direct carriers to establish 'effective safeguards' with respect to CPNI" would be sufficient. GTE at 17.

2 See, e.g., GTE at 17-18; BellSouth at 6-7; NYNEX at 2, 5, 6-7, 15; Pacific at 1-3; USTA at 2-3; SBC at 1-2; AT&T at 10-11.

3 GTE at 1; Pacific at 1; BellSouth at 4-6; SBC at 5.

4 See, e.g., Bell Atlantic at 1-2; CBT at 2-3; USTA at 4; SBC at 8-9. Cf. BellSouth at 2-3.

ship, those interests require, at most, carrier disclosures of information practices. Privacy protection does not require consumers to be polled by businesses with whom they have a relationship, nor should those interests suffer the predictable degradation of quality services and marketing efforts that would result should affirmative written customer authorizations be mandated. There is no indication that Congress expected to penalize customers, in the name of privacy protection, simply because the *status quo* is wholly satisfactory to them.[5]

Third, as part of its Section 222 interpretation, the FCC should reemphasize the benefits of corporate information sharing on competition itself. Arguments that businesses should not be able to make use of their commercial assets in waging competitive battles are anti-, not pro-, competitive. As recently stated:

> We agree with the Commission . . . that AT&T/McCaw's ability to market its service directly to the customers of other . . . carriers should lead to lower prices and improved service offerings designed to lure those customers away. . . . [W]e do not see why that is contrary to the public interest. . . . [T]he intensified price and service competition that follows is likely to draw more customers into the . . . market -- a clear public benefit.[6]

Arguments opposing information sharing within a corporate enterprise are not pro-consumer and do not advance the public interest. Rather, such arguments are generally advanced merely to constrain the lawful advantages enjoyed by companies in possession of information,[7] under the unproven auspice of "possibl[e] anti-

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[5] Bell Atlantic at 1-2; Pacific at 9 (noting that it is counterintuitive that an individual would need to take affirmative action to maintain the *status quo*).

[6] SBC Communications Inc. v. FCC, 56 F.3rd 1484, 1494-95 (D.C. Cir. 1995), cited by AT&T at n.11. Cf. AT&T at 9 ("the Commission and courts have repeatedly confirmed that customer welfare and beneficial competition are enhanced by encouraging and expanding suppliers' ability to use customer information to design and offer attractive new products [emphasis in original]."); BellSouth at 3 ("Section 222 -- adopted in the context of sweeping telecommunications industry reforms designed to foster competition in all telecommunications markets -- is properly read consistent with . . . broad use of customer information by a carrier to achieve procompetitive results[.]"), 20 (quoting from an NTIA Study to the effect that the "'free flow of information -- even personal information -- promotes a dynamic economic marketplace, which produces substantial benefits for consumers and society as a whole.").

[7] See, e.g., Catlin v. Washington Energy Co., 791 F.2d 1343, 1345-46, 1348-49 (9th Cir. 1986) (gas company's use of its mailing list to advertise vent dampers in its gas billings was not unlawful, but rather an advantage available to the utility as an integrated business). Compare Berkey Photo, Inc. v. Eastman Kodak Co., 603 F.2d 263, 276 (2d Cir. 1979), cert. denied, 444 U.S. 1093 (1980) ("So long as we allow a firm to compete in several fields, we must expect it to seek the competitive advantages of its broad-based activity. . . . These are gains that accrue to any integrated firm, regardless of its market

competitive mischief."[8] Such arguments are almost always advanced by businesses that are themselves constrained, either by regulation or business decision, to a single product or geographic market. In an environment in which such markets are converging rapidly, those who advance walls around information use seek to advantage themselves as individual competitors, not competition overall.[9]

The FCC suggests that Congress enacted Section 222, in part, to constrain "established providers of certain telecommunications services from gaining an advantage by using CPNI to facilitate their entry into new telecommunications services without obtaining prior customer authorization."[10] Yet, such is not evident from the neutral language of the statute ("every telecommunications carrier") nor from the ultimate legislative history.

There is no evidence, for example, that Congress determined the FCC's existing CPNI rules, which facilitate broad internal use of CPNI, as operating contrary to the public interest or a robust marketplace.[11] Given the number and variety of competitors that Congress contemplated would be competing in a non-"balkanized," non-"decompartmentalized" telecommunications market,[12] and the fact that it imposed certain privacy protection obligations on "every" one of them, it is hard to imagine that Congress, simultaneously, would have wanted to balkanize companies' internal operations and compromise their delivery of quality, integrated service offerings to the public through rigid CPNI restrictions. Section 222 must be read to accommodate its non-differentiated privacy

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snare[.]").

[8] AirTouch at 6.

[9] See, e.g., Grason Elec. v. Sacramento Municipal Utility Dist., 571 F. Supp. 1504, 1512-13 (E.D. Cal. 1983), suggesting that demands by competing providers for the advantages enjoyed by a large firm or a dominant provider often take on aspects of an aggressive disinformation campaign. It makes one feel as if one had "ventured through the looking glass."

[10] NPRM ¶ 24, n.60, cited by MFS at 8, CompuServe at 4. Cf. ITAA at 4. But see also SBC at 4, 7 (arguing that it is not clear that the FCC has actually captured Congress' intent in its assertion of Congressional intent).

[11] No convincing argument can be made that CPNI use (based, in large part, on implied consent) has operated to impede the vitality or competitiveness of the CPE or enhanced services markets. Pacific at 16-17. Also note H.R. 3626, the immediate predecessor to H.R. 1555, would have generally restricted the use of CPNI with respect to these kinds of services without affirmative customer request, but such model was rejected for something far more competitively neutral.

[12] BellSouth at 6-7.

obligations, while allowing broad internal information use in advancement of the public good.

II. THE INTERPRETATION OF SECTION 222 MOST IN THE PUBLIC INTEREST

A model of Section 222 that best promotes the public interest, is supported by statutory language as well as a variety of commenting parties, ranging from LECs to IXCs, from small to large carriers, follows.[13]

- Every telecommunications carrier should be equally subject to the statutory provisions of Section 222 and its implementing regulations.[14] Equal application of the rules is consistent with express statutory language, the deregulatory and pro-competitive goals of the 1996 Act and customer privacy expectations.[15]

- No telecommunications carrier should be subject to additional statutory or lingering Computer II/III CPNI obligations,[16] particularly those involving computerized access and password identification restriction systems, unless those are deemed necessary to protect consumer privacy.

- "The telecommunications service" (Section 222(c)(1)(A)) would be construed consistent with its statutory

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[13] Many commentors opposing the outlined model are not integrated service providers. As such, they have every incentive to hamstring the operations of integrated competitors. While such positions might advance particular competitors in specific market segments, they do not advance the general public welfare.

[14] This position is supported by a variety of commenting parties. See, e.g., Bell Atlantic at 2, 9-10; NYNEX at 3-6, 19-20; Pacific at 14-15, 17; SBC at 14-15. A customer's privacy interests are not dependent on the size or market position of a telecommunications carrier; nor should the protection of those interests be. See Bell Atlantic at 2, 9; GTE at 17; NYNEX at 6; NARUC, Attached Resolution re: H.R. 3432 (noting that "all carriers that can compile CPNI should be subject to all the privacy restrictions" with no exemptions for size or type of carrier); PaOCA at 4-5; SBC at 2-4.

[15] Arguments such as those proffered by ICG (at 2), e.g., to the effect that customers have different privacy interests *vis-a-vis* CLECs and ILECs are not intuitive and are offered up absent any factual or legal support. The FCC has repeatedly refused to adopt this strained notion of "privacy;" and facts provided to the FCC in this, as well as other, proceedings demonstrate it is simply not accurate. See CBT at 2-3 (customers do not want information about them provided to third parties without their affirmative consent). Cf. 1991 USWC Comments, CC Docket No. 90-623, at 64-68.

Thus, other than as outlined herein (differentiating between Section 222(c)(1) uses and other uses), no regulatory "forbearance" should be provided carriers (ICG at 5) based on either size (Frontier at 7 n.13), gross annual revenues (SBT at 1), the existence of Section 271(e) (MFS at 2, 9-10) or 251(f) (AirTouch at 6). Sections 251 and 271 demonstrate a legislative forbearance based on competitive criteria, a forbearance significantly absent from the express language of Section 222, a privacy statute. See NYNEX at 4 and n.6, 19; SBC at 3.

[16] There is broad support for this proposition, albeit all from those carriers currently encumbered by Computer II/III rules. See Ameritech at 14-17; Bell Atlantic at 2, 9-10; BellSouth at 22-25; GTE at 4, 16-17; NYNEX at 18; Pacific at 15-16; SBC at 14-15. Given that the existing CPNI rules are carrier and market specific and the FCC has tentatively concluded that their continuation is not necessary to accomplish the public interest objectives of Section 222 (NPRM ¶ 40; see also, BellSouth at 23-24), they should be voided. In particular, the computerized access restrictions should be vacated, as those requirements simply impose unnecessary ongoing, operational costs on certain carriers (GTE at 17; see NPRM ¶ 35; those who claim that these ongoing burdens are not significant, e.g., ITAA at 10; present no evidence to support their claims and would, undoubtedly, sing a different tune if their businesses were affected.), and can be expected to work at cross-purposes with the Act's intention. See Pacific at 16 (existing requirements might frustrate the realization of inbound customer contacts).

definition, incorporating the entirety of telecommunications carriers'[17] basic transmission services.[18] The public interest would benefit by such interpretation, corresponding as it does with current carrier CPNI practices, educated product design and marketing, and consumer one-stop shopping expectations. Additionally, it is an abiding interpretation, based on existing and predictable future market drivers, not regulatory classifications and distinctions that will undoubtedly require later FCC updating or intervention.[19] It is also advantaged by being in accord with the convergence goals of the 1996 Act, both as to providers and service offerings.[20]

- Alternatively, there should be only two service categorizations: local and interexchange.[21] As supported by both market behavior and statutory language,[22] CMRS should be treated as a transmission option, used in the provision of either local or interexchange service, rather than as a discrete service.

- The term "necessary or used in" (Section 222(c)(1)(B)) would be construed to allow CPNI use with respect to ancillary telecommunications and/or non-telecommunications services. These might include "floating services" (such as short-haul toll and CMRS) or CPE, certain enhanced services, and inside wiring.[23] Such interpretation

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17 U S WEST supports AirTouch (at 3 n.3) that the term "telecommunications carrier" should be interpreted to include all commonly controlled telecommunications entities, to avoid commercially irrational corporate gerrymandering.

18 There is broad support for this position. See, e.g., AT&T at 2-3, 6-11; BellSouth at 2-3, 5, 7-9; CBT at 1, 3; MFS at 3-5; SBC at 5-9; USTA at 1-3; GTE at 3-4, 11; U S WEST at 5. Such interpretation would not, as some contend, stretch the statutory language too far or operate to eviscerate the consumer privacy rights afforded by Section 222. See, e.g., CompTel at 4-5; Excel at 3; LDDS at 7; TRA at 15. Cf. CPUC at 7. Rather, as AT&T and SBC demonstrate, such interpretation benefits by explicit reference to and utilization of the statutory definition of the term "telecommunications service." That term, a singular term, includes in its statutory definition a plural word ("telecommunications"). In turn, the word "telecommunications" is statutorily defined in a way almost identical to the FCC's current definition of "basic service." AT&T at 6-7 and n.4 ("because 'telecommunications service' extends to all basic services 'regardless of the facilities used,' it appears that Congress intended to include all types of services -- local, interexchange and wireless -- within this definition"); SBC at 6 ("The terms 'telecommunications service' and 'telecommunications' are, therefore, provider-neutral, distance neutral, technology neutral and, most importantly, user or customer focus neutral. The terms do not refer to specific types or categories of service, but, rather, leave those matters to a user's choosing.") See also MFS at 3-4.

19 See ALLTEL at 4 (classifications stem from "MFJ-based stratification" of industry); BellSouth at 10-11 (the FCC's tripartite service categorization lies not with traditional service distinctions as the market appreciates them but in historic regulatory and judicial classifications of providers and services). See also, CBT at 4-5; Bell Atlantic at 3-4; USTA at 4 (all opposing a statutory interpretation based on what, to consumers in the marketplace, are arbitrary, regulatory classifications). And see NYNEX at 8, 11; Pacific at 3-4; SBC at 7 (all suggesting FCC's implementing regulations will require modification after a very short period of time, if adopted as proposed). Cf. BellSouth at 5; USTA at 3; CompTel at 5-6.

20 See ALLTEL at 4-5; AT&T at 10-11; BellSouth at 5-7, 9-10,11; CBT at 4-5; SBC at 6-7; USTA at 3.

21 See BellSouth at 10-12; GTE at 11; MCI at 4-5. Cf. Ameritech at n.8 (noting affinity of PCS and local landline service); AT&T at 9 and n.10 (noting FCC's observations on value of integration of landline and wireless). And see Arch at 9-10 (noting that packaging landline and CMRS "may be consistent with the public interest" but arguing against such integration).

22 It is clear that if the FCC is inclined to conclude that the legislative history of Section 222 supports only the differentiation between two services (local and interexchange), it could reasonably conclude that CMRS is a service, at the customer's option, that is necessary to and used in conjunction with either pursuant to Section 222(c)(1)(B).

23 This interpretation is supported by a variety of commenting parties. See Ameritech at 4-6, 11-12; Arch at 7-8; AT&T at 8, n.5; Bell Atlantic at 2, 3-6; CBT at 6; GTE at 12, n.25; NYNEX at 12-13; Pacific at 4; SBC at 7-8.

is entirely supportable by the statutory language and its history. Furthermore, it promotes those consumer benefits and carrier efficiencies currently fostered by existing regulatory policy.

- CPNI from any telecommunications or ancillary service should be able to be used for installation, repair, and maintenance. Different statutory interpretations permit such result;[24] and such is clearly in the public interest. The installation of one service could predictably require the installation or maintenance of another; or a repair request could involve an outage involving more than one service component. To avoid customer harm, for installation, maintenance, and repair, CPNI use should be broadly permitted.

- Consistent with the express statutory language of Section 222(c)(1), for the above uses, no customer "approval" should be required.[25] Congress has deemed (c)(1) CPNI uses as predictable and expected by customers. Furthermore, existing regulatory policies support the idea that customers expect telecommunications carriers to use CPNI in these contexts and that no "notification" of such uses is necessary.

- Consistent with the Section 222(c)(1)'s express language, only if a telecommunications carrier intends to use CPNI beyond the scope of (c)(1) should a carrier need to pursue customer approval.[26] How such approvals might be secured is addressed below.

III. HARMONIZING THE TERM "THE TELECOMMUNICATIONS SERVICE" AND CUSTOMER "APPROVAL"

Two potential tension points exist in interpreting Section 222. The first involves the scope of (c)(1)(A) ("the telecommunications service") and (c)(1)(B) ("services necessary or used in"); the second, the scope of customer "approval." A narrow construction of both terms would bring the current telecommunications market to a halt. Yet, a narrow construction of (c)(1)(A) and (B) could be overcome by a benign approval process.[27]

While benign from a carrier perspective, a narrow construction of (c)(1) could potentially result in every

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[24] The FCC opines that such could result from a possible reading of either Section 222(c)(1)(B) or Section 222(d)(1). Some commentors prefer associating the permissibility with the former (see Ameritech at 12; Arch at 7; CBT at 7; MCI at 6-7 and n.12; Sprint at 4); others, with the latter (see NYNEX at 12 and n.15; SBC at 13). MCI and CompTel, alone of all commentors, appear to want to constrain the use of CPNI for installation, maintenance, and repair purposes to "discrete" buckets. MCI at 6-7 and n.12; CompTel at 5.

[25] This position finds broad support. See U S WEST at 15-16; SBC at 10, n.9; Pacific at 5-6 and n.9; USTA at 5.

[26] See AT&T at 3-4, 13-14; USTA at 5. Cf. ALLTEL at 5 (a notification supported by an existing business relationship should be all that is required in any case).

[27] For example, Bell Atlantic and Pacific take the position that they can live with the FCC's proposed service categories (see Bell Atlantic at 2; Pacific at 3), but press for an approval process that allows for both oral consents and written notifications, but does not require written consent (see Bell Atlantic at 9; Pacific at 5-7). Cf. Ameritech at 3; BellSouth at 4, 13.

telecommunications carrier in the U.S. seeking "approval" from consumers to use CPNI across service categories and for directly-related supporting services.[28] This campaign would be directed to customers already receiving these services, who expect to continue to receive them, and who want integrated service packages in a one-stop shopping environment.[29]

A better reading of Section 222, from a consumer and public interest perspective, and one totally supported by the express language of the statute, is that customer "approvals" need be secured only if CPNI is to be used beyond those purposes outlined in Section 222(c)(1)(A) or (B).[30] This reading has the advantage of keeping to a minimum the deluge of carrier-to-consumer communications (both oral and written) that can be anticipated flowing from a narrower interpretation. Furthermore, it provides relief to those carriers that are not highly integrated with respect to their service package/product mixes.[31] Only carriers that intend to incorporate into their integrated offerings services of a type not necessary or used in the provision of telecommunications service would be required to seek customer approval.[32]

Such approach benefits from the fact that those oral or written "notification/approval" messages that

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[28] U S WEST supports BellSouth's position that such notification would not necessarily be absolutely required. For example, Commission "Consumer Alert" type publications (BellSouth at 15) or industry communiqués might form the basis of the notification. See note 40, infra. If this model were adopted, there would be considerably less market confusion.

[29] See Bell Atlantic at 6-7 (citing to two recent surveys to support the observation); CBT at 4 (also citing to an internal survey); SBC at 1, 6 (and Attachment regarding MCI's packaging of various offerings into a single MCI One offering); U S WEST at 6 and Attachment regarding cable operators' intentions to offer integrated packages. See also the Attachment, appended hereto.

[30] Compare the FCC's Caller ID/ANI rulings allowing ANI to be used without notification where the use is "directly related" to the purpose of the call, but requiring the securing of consent for other uses. Cf. BellSouth at 13-14.

[31] Cf. USTA at 3-4.

[32] For lack of any logical placement, U S WEST here addresses APCC's argument that LECs should be required to provide payphone location information to competitors, under the theory that the information is aggregated CPNI. See APCC generally. This is incorrect. The information APCC claims a right to have is either not CPNI at all, but commercial business information of the LEC; or it is information about the LEC acting in a customer capacity, regarding which the LEC is free to approve broader intra- or inter-corporate sharing.

actually were provided to the public would be clearer, i.e., directed to unexpected or unanticipated uses, i.e., those uses most likely to produce privacy "concerns." Both the medium and the message would be imbued with more significance,[33] and would satisfy the long-standing fair information principle that information secured for one purpose should not be used for other purposes without the knowledge of the consumer.[34]

IV. APPROVAL MECHANISMS SHOULD REFLECT MARKET CONDITIONS AND CUSTOMER EXPECTATIONS

To the extent the FCC's rules require carrier action to secure customer approvals in any context, a notification should be part of the process. Both notification and approval can be secured either through an oral or written process.[35] Any regulations should allow for both[36] and should avoid extensive insinuation in the processes.[37]

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[33] U S WEST is aware that this model would be somewhat different from that imposed by Congress on the cable industry. That model, codified at 47 USC Section 551, requires annual notification by cable companies of their information practices within the existing business relationship and with respect to information that is cable service (and ancillary service) related. However, an individual generally has only a single cable operator as its service provider. Within the telecommunications market, some consumers have two or three providers of service. It seems apparent that a notification/approval initiative from each of these service providers will exact a serious toll on these consumers, ranging from irritation to utter confusion (see Bell Atlantic at 10 (noting that customers of annual BOC CPNI notices are already expressing annoyance); BellSouth at 17 and nn. 28-29 (noting that the NTIA Study concluded there was no need for recurrent notifications, yielding at most marginal benefits); Bell Atlantic at 10 (noting that customers do not generally change their choices over the years of notification).

[34] See NIITF Principles for Providing and Using Personal Information, Adopted June 6, 1995 ("NIITF Principles"), Fairness Principle ("Information users should not use personal information in ways incompatible with the individual's understanding of how it will be used[.]"); OECD Guidelines, The Collection Principle ("data should be obtained by lawful and fair means and, where appropriate, with the knowledge or consent of the data subject").

[35] See, e.g., Bell Atlantic at 2; Pacific at 5-6; SBC at 10-11 (claiming that oral notification and approval could be the "least burdensome" approval mechanism). U S WEST is not certain that such would be the case. Overall, we believe that a written notification with an opportunity to opt out could be the least burdensome method. See U S WEST at 17; BellSouth at 16; NYNEX at 14. Cf. SBC at 12 (noting that with a notice and opt out, outbound telemarketing would be unnecessary).

[36] See Ameritech at 8-11; AT&T at 15-16; Bell Atlantic at 2, 9; BellSouth at 16; MCI at 9-11; NYNEX at 14, 15; Sprint at 5.

[37] See AirTouch at 11; Arch at 8; CPUC at 6, 11-12; CWI at 6, 8-9 and nn.7, 9; ITAA at 5; LDDS at 10-11; Frontier at 8-9 and n.17; NARUC at 3 (all calling for some kind of FCC involvement in the process). Cf. Excel at 4 (arguing that oral authorizations would lead to a deluge of complaints similar to those involved with slamming). Those processes established for PIC changes are not, by any means, appropriate "first steps" in a notification/authorization process between entities in an existing business relationship. While verification processes might make sense in the context of a change of a customer's carrier (from one where the customer has an existing relationship to one where the relationship is new), particularly when supported by significant customer complaints about the existing processes and when endorsed by two competing entities, such processes have no place in a situation where a carrier and customers are not ceasing their relationship but are merely discussing the *status quo.*

Carriers are quite capable of appropriately orchestrating an oral approval process, should they deem its adoption appropriate.[38] Carriers are not inclined to abuse their customers and risk losing them. Thus, the market will impose sufficient controls on any oral notification/authorization process. The FCC's TCPA implementation, requiring a business' maintenance of a "Do Not Call" list, provides customers with additional protection.[39]

Should carriers determine to proceed with a written process, flexibility is critical. For example, "common" or carrier-specific notifications should be permitted.[40] In all events, carriers should be permitted to craft the contents of any communication. While the FCC might deem it appropriate to prescribe the form of the communication,[41] there is no need for a prescription of contents or prior FCC review of the text.[42]

Carriers should be permitted to use one-time written notifications, provided through bill inserts or direct mailings (at the carrier's discretion),[43] informing customers that they can opt-out of the described CPNI uses should they desire.[44] A carrier could provide either a local or 800 number or a postcard (at the carrier's discre-

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[38] See Bell Atlantic at 2, 9; BellSouth at 22; MCI at 11 (but suggesting it could support reasonable verification requirements, such as recording of conversations or internal procedures). Accord Sprint at 5.

[39] See BellSouth at 14-15; MCI at 12. Thus, customers would not be "bombarded" with unwanted telemarketing calls, as the Texas PUC suggests. Texas PUC at 7.

[40] A common notification might take the following form: "All carriers with whom you do business have certain information about you. This information includes xxx, xxx. Carriers use this information to provide you with a range of products and services from xxx to xxx. They might also share this information with affiliates that provide non-telecommunications products, ranging from voice mail to cable entertainment." (See Ameritech at 4; AT&T at 14 and n.16; SBC at 11 (addressing the mention of affiliates).) And so on. Clearly, a joint or common notification could be crafted if carriers desired to do so.

[41] For example, based on criteria currently found in 47 CFR Section 64.1150, the FCC might require that a notification not contain "promotional language or material;" that it contain "easily readable" language; be "printed with a type of sufficient size and readable . . . to be clearly legible;" and that "[i]f any portion of the [notification] is translated into another language, that all portions" of the notification be so translated. U S WEST would not consider communications about the value of information sharing within a single corporate enterprise to be construed as "promotional or marketing" in nature. Cf. CWI at 6-7, 9.

[42] ITAA at 7-8 (calling for either option); LDDS at 10 (wants a prescription of contents). See Sprint at 4-5 (neither is required); BellSouth at 14, 17-18 (no need for content regulation).

[43] See CWI at 6; CPUC at 10 (both noting carriers routinely communicate with customers *via* bill inserts). And see, ALLTEL at 5; BellSouth at 16; CompuServe at 6; LDDS at 9.

[44] See, e.g., Ameritech at 9-11; AT&T at 13-16; Bell Atlantic at 8; BellSouth at 18-20; GTE at 5-10; MCI at 8-10; Pacific at 8; SBC at 11-12. CBT suggests that a carrier should provide a written notification with an attempt to secure either an oral or

tion)[45] to accommodate those customers wanting to opt out.

As commentors point out, a notice and/or opt-out model, even with respect to transactional data similar to CPNI, has been endorsed by Congress (in the Cable Act), as well as the NTIA (after conducting a wide-ranging inquiry into the matter of privacy associated with telecommunications information and converging providers and services).[46] It has also been endorsed by the FCC itself.[47]

Arguments that at least some carriers should have to secure written authorization from customers before CPNI could be used broadly within a carrier's corporate family[48] should be rejected. Such arguments strain the language of Section 222(c),[49] proffer inauthentic competitive policy arguments,[50] and rely on unsubstantiated fac-

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written authorization. Only if the carrier, after exerting good faith efforts, cannot secure either type of affirmative authorization should the carrier be able to rely on implied consent to support continued CPNI use. CBT at 8. U S WEST disagrees with the proposed CBT approach. It is inconsistent with expected consumer conduct and balances little. As CBT acknowledges, implied consent can be gleaned from the existing business relationship. Cf. ALLTEL at 5-6. The FCC has acknowledged that securing a written customer reply to a carrier communication is difficult, even where a consumer is totally committed to doing business with a carrier. See, e.g., Changing Long Distance Carriers, 7 FCC Rcd. 1038, 1045 ¶ 44 ("carriers have had little success in having customers return the LOA, and it tends to discourage competition.") (1992); Divestiture Related Tariffs, 101 FCC 2d 935, 942 ¶ 21 ("We recognize, however, that end users who make a verbal commitment to use a carrier's services may not return signed authorizations promptly.") (1985). Furthermore, carriers should not have to incur "good faith effort" costs to verify the logical, particularly when those costs will only be passed onto customers.

[45] See GTE at 5-6. GTE makes the further suggestion that a carrier give customers a 30-day time frame in which to respond, after which the carrier would be able to assume approval for the CPNI use. GTE at 6. While this 30-day time frame worked within the context of the BNA disclosure, where the information in question was going to be released to third parties, it does not work within the context of a business' ability to use its information internally. No business can "cease" using its commercial information for 30 days. Thus, a carrier should be permitted to continue to use CPNI during the notification process, ceasing to do so only when contacted by a customer, at whatever time such contact is made.

[46] See Pacific at 7-8; BellSouth at 18-19. Cf. See NIITF Principles, Notice Principle ("Information users who collect personal information directly from the individual should provide adequate, relevant information about" what information is collected and how it is used").

[47] See GTE at 8 (citing to the FCC's BNA Second Recon. Order, 8 FCC Rcd. 8798, 8810 (1993)).

[48] See, e.g., Excel at 4-5; ICG at 6 (for ILECs only); ITAA at 5; LDDS at 10-11 (if oral consents are permitted at all, they should not be allowed with respect to ILECs); NARUC at 2; Texas PUC at 8; TRA at 16; TCG at 7 (either affirmative oral or written consent); CPUC at 11; WUTC at 5, 7; CFA at 5; CompTel at 3, 7, 10; CompuServe at 3, 5; AirTouch (for ILECs only); Frontier at 7 (at n.13, Frontier suggests that small carriers might be exempted from the requirement with no explanation as to how the privacy concerns of customers of small carriers differ from those of large carriers); MFS at 12 (only those carriers above the Section 271(e)(1) threshold would need affirmative written consent from embedded base).

[49] See, e.g., Frontier at 8; CPUC at 4, 5-6; TCG at 3. And see CompTel at 7 (claiming that a LEC in an existing business rela-

tual assertions.[51] A written authorization mandate would severely compromise, not promote, the public interest.

In stark contrast to those urging the imposition of affirmative, written authorizations, those arguing against such requirement do so persuasively, presenting arguments encompassing analyses of the statutory language;[52] comparisons to other Congressional enactments;[53] citations to FCC assertions that, particularly with respect to the mass market, a written authorization requirement would not accurately reflect a consumer's desires with respect to CPNI[54] and would impose a passive form of structural separation;[55] the customer confusion likely to attend a written authorization request;[56] citations to other federal agencies supporting a notice and opt/out

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tionship is simply "any party"); CompuServe at 5; CFA at 5-6 (seeming to acknowledge the difference between a third party and a LEC in an existing business relationship but arguing, from a policy perspective, for third party treatment).

[50] See above discussion of D.C. Circuit Court case at note 6, supra.

[51] The CPUC makes the statement that "[s]ince written authorization can be obtained with relative efficiency," it is preferable to oral approvals. CPUC at 7. Compare CompuServe at 6 (arguing that it would be but a "minimal burden" on carriers to secure written consents). Neither the CPUC nor CompuServe cite to any factual or empirical evidence to support their positions. The position is not only not intuitive; it is contrary to any reasonable expectations of consumer behavior. See Pacific at 9.

[52] See, e.g., Ameritech at 9-10; AT&T at 13; BellSouth at 18-19, 21; MCI at 8-9 and n.14; Pacific at 6-7; GTE at 2, 7-8. As argued, since Congress used the term "written" in Section 222(c)(2) but not in (c)(1) clearly supports a finding that Congress did not mean to mandate written approvals with respect to subsection (c)(1). Such invokes "the rule of construction that an express statutory requirement here, contrasted with statutory silence there, shows an intent to confine the requirement to the specified instance." Field v. Mans, 116 S.Ct. 437, 442 (1995). See also Gozlon-Peretz v. United States, 498 U.S. 395, 404 (1991); ACLU v. Reno, Civil Action No. 96-1458, Slip Op., 6/11/96 at Sloviter Opinion, Section A.

In addition to those statutory arguments already presented, it is clear that Section 222, deriving as it did from H.R. 3432 and H.R. 3626, was intended not to include an affirmative written request component. (All these provisions have a Rep. Markey fingerprint.) As proposed, H.R. 3432 would have imposed CPNI regulations only on LECs and would have required a customer's "affirmative request" before CPNI could be used broadly. H.R. 3432 (introduced but never passed out of any Committee), was amended by H.R. 3626 (passed by the Energy and Commerce Committee), which extended the CPNI provisions to all common carriers and substituted the word "approval" for "affirmative request." "Approval" was the word that wended its way through to H.R. 1555 and ultimately to Section 222, where the qualifier "affirmative" is nowhere to be found with respect to customer "approval."

[53] BellSouth at 19-20; NYNEX at 15-16; USTA at 5, 8-9.

[54] MCI at 9 and n.15 (citing to FCC's statements in 9th Circuit Brief where BOC Safeguards Order is repeatedly cited); AT&T at 12-13 (citing Computer III Remand Order); GTE at 8 (citing BNA Second Recon. Order eliminating a requirement that unlisted and unpublished subscribers provide affirmative consent prior to disclosure of their BNA), 9; NYNEX at 16; Pacific at 8.

[55] See Pacific at 8, 9-10.

[56] See Pacific at 9 (noting that customers may believe they have something to fear from, or that they could be harmed by, the proposed carrier action because otherwise a writing would not be necessary).

model;[57] and factual presentations associated about recent and past company forays into the realm of "affirmative written consent."[58]

These arguments are embellished by constitutional imperatives. Requiring affirmative consumer written consent before a carrier could meaningfully make use of its own intellectual property and business assets would raise serious Takings and First Amendment problems.[59] The fact that such authorizations would not be forthcoming in any substantial volume would result in a carrier's being deprived of its own business asset with respect to product design and development, as well as marketing efforts.[60] The ultimate victim would be customers and a telecommunications marketplace devoid of the kind of advanced telecommunications and information products envisioned by Congress.

V. THE FCC NEED NOT ENACT RULES WITH RESPECT TO SECTION 222(E), AT THIS TIME

Section 222 is straightforward with respect to carrier obligations associated with SLI. Little by way of regulatory guidance is necessary. U S WEST supports YPPA's comments with respect to this provision.[61] Furthermore, we endorse MCI's position that, given the non-sensitive nature of SLI (as acknowledged by Congress),[62] unless a carrier chooses to impose a contractual restriction on use (e.g., directory publishing only),[63] no restriction

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[57] See BellSouth at 19; Pacific at 8.

[58] GTE at 6 and n.9 (in GTE's best estimation no more than 27% of residential customers would respond to a written affirmative consent request and as few as 5% might; absent a personal visit to small businesses, the most likely response rate would not exceed 5%). See also U S WEST at 18-19 (citing to earlier comments before the FCC outlining an affirmative written consent proposal with regard to a particular service offering).

[59] GTE at 13-16; USTA at 7-9. U S WEST supports these constitutional arguments. Cf. U S WEST at 19-20.

[60] See GTE at 9; USTA at 5-6.

[61] YPPA at 2-3.

[62] MCI at 23-24. Cf. ITAA at 10 (noting that LECs have no unique obligation to hold SLI in confidence).

[63] A number of parties support such a restriction. See, e.g., ALLTEL at 7; Ameritech at 19; CBT at 12; NYNEX at 22-23; SBC at 18; Sprint at 7. While such may be desirable from a carrier's perspective (wanting to license a single versus a general purpose product), from a "privacy" perspective, such is clearly not necessary. And cf. USTA at 6 (noting that Section 222(e) would permit carriers to provide SLI for purposes other than directory publishing but does not require it).

should be mandated. If a carrier chooses to provide a general purpose list (one which would accommodate directory publishing and other uses, such as ancillary marketing) a carrier should be permitted to do so.[64]

U S WEST parts company with MCI (and ADP),[65] however, with respect to pricing principles for SLI. We support GTE in its arguments that the pricing proposals proffered by these commentors were rejected by Congress during the deliberations on the final language of Section 222.[66] The FCC should not entertain them again.

With respect to the scope and extent of SLI unbundling, U S WEST supports the position that compliance with the non-discriminatory requirements of Section 222(e) are met when a carrier provides SLI necessary to produce a white pages directory to third parties in the same format and with the same information as that provided to its white pages publishing operation (whether an integrated operation or a separate affiliate).[67]

We agree with those opposing any FCC definition of SLI elements.[68] In U S WEST's experience, the vast majority of directory publishers require more than just name, address and phone number to produce a quality di-

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[64] USWC, for example, actually has two SLI products and both include available updates. SLI Offering #1 is appropriate only for directory publishers; SLI Offering #2 can be used by directory publishers and other purchasers. The USWC information included in SLI Offering #2 can be used for any lawful purpose; and with respect to any individual's SLI includes indicators for those individuals who have requested that they not be included on marketing lists. Both products have been in the market for many years. A directory publisher could purchase either. If the general purpose product is purchased, the publisher can use the information with respect to other of its business operations.

Publishers can buy daily business listing changes for their market that include new, moved, changed and disconnected business listings, along with the SIC in geographic areas where USWC has that data (see notes 69, 71, infra). This enables them to include the most current listings in their telephone directories, in addition to tagging the new ones as such. USWC does not provide a list that has new move activity independent of other order activity.

[65] MCI at 22-23; ADP at 20.

[66] GTE at 18-19.

[67] See CBT at 12; Ameritech at 18; ALLTEL 6. While non-discriminatory, some might object to the SLI product formation itself. See Exhibit 6 to Letter from Philip L. Verveer, et al. to A. Richard Metzger, Jr. (cited in the NPRM at n.71), Letter from Burel Schaberg to Ms. Carol Hill, complaining about the consolidation of the provision of SLI from two divisions of U S WEST, Inc. to USWC alone. Mr. Schaberg objects to the scope of the USWC SLI directory offering (we believe due to the number of elements provided and the fact that new move activity information is not a discrete offering). However, the SLI offered to Mr. Schaberg corresponds to that provided to USWC's white pages publisher affiliate. We believe it is an offering appropriate in size and scope. USWC is always willing, however, to hear from publishers in the market. Based on demand, our SLI offerings could undergo modification.

[68] See, e.g., SBC at 16; GTE at 18-19; YPPA at 2.

rectory product. Necessary SLI elements are generally included in most carrier offerings. While there might be occasional differences of opinion with respect to SLI elements,[69] these are best resolved within the context of carrier-publisher negotiations, rather than an FCC prescription. There is no public interest purpose served by the FCC micro-managing the variety of SLI offerings currently available in the marketplace.

Nor do we see any need for mandates on levels of "unbundling." SLI offerings are currently available to directory publishers based on different selection criteria. These most often include, as SBC has indicated, "residences or businesses, new or existing listings, listings by geographic area such as NXX or area code, or other criteria[.]"[70] If a carrier's system is capable of sorting by the requested criteria,[71] a carrier should be in a position to respond to a reasonable request to provide SLI in that manner.

Finally, the comments suggest that "primary advertising classification" ("PAC") could be defined and/or provided to directory publishers in different ways. These differences arise from whether the carrier assigns any-

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[69] For example, MCI includes an Attachment A outlining how, in its opinion, "SLI should be defined, organized and formatted, including the categories of information that should be included and the frequency of updates." MCI at 22. U S WEST does not support a prescription along the lines suggested by MCI. While MCI's Attachment suggests that it is in line with industry standards, there are -- in fact -- no SLI standards. Much of what is included in a carrier's SLI offering is a matter of state regulatory prescription or negotiations with directory publishers. In some respects, MCI's proposal would be insufficient for USWC to meet its state regulatory obligations regarding SLI for directory publishers and providers of directory assistance; in other respects it would require USWC to provide information it does not have readily available. In essence, MCI's proposal is too rigid for practical application. For example, under Section II of MCI's Attachment, paragraph 1 provides specific content requirements for privacy-type listings. USWC has more privacy codes than those requested by MCI. Paragraph 2 addresses the format of the information. USWC has approximately 40+ data elements that were designed to meet the requirements of state rules and regulations. Significant expense could be necessary to create additional elements or formats. At the current time, given that our SLI offering meets the majority of publishers' needs, we are unwilling to commit the additional expense to create other formats to meet specific requests from individual directory publishers. Cf. ALLTEL at 7. And see note 71, infra.

[70] SBC at 17 n.16. Cf. NYNEX at 22 (noting that SLI should be available by exchanges).

[71] For example, U S WEST does not have zip code information in our main databases, as an SLI element. While that information is sometimes provided, it is gleaned from a source different from our SLI offering. SLI elements, as a matter of database extractions, are limited in number. If a directory publisher wanted an additional database element, obviously some negotiation would be necessary. In all events, U S WEST would expect to recover any costs associated with creating additional types of sorting capabilities. See CBT at 12.

thing other than a business/residence classification in its original intake service order process.[72] Because USWC, does not gather SLI other than whether a subscriber is "business/residence," we support a definition of PAC that is either limited to such classification;[73] or that requires a carrier to provide more only if available.[74] It is clear that the intention of the statute is not compromised by such interpretation (e.g., Section 222(e) states that SLI includes a customer's name, address and telephone number "or primary advertising classification").

VI. CONCLUSION

For all the above-stated reasons, the FCC should frame a regulatory regime to implement Section 222 along the lines suggested herein. Such a framework has broad support across carrier entities and would clearly be in the public interest.

Respectfully submitted,
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June 26, 1996

[72] See, e.g., Ameritech at 17-18; NYNEX at 21, SBC at 17; Sprint at 8 (all discussing PAC as a directory classification assigned by the carrier at the time of service establishment).

[73] CBT at 13 (supports such a definition because "CBT has no permanent record of 'yellow page headings' of its customers, as these are not assigned at the time service is established.").

[74] SBC at 17. This would include not just PAC headings but other information, as well, such as SIC. When USWC has SIC information available, we provide it via our SLI offering. However, it is not available on all our systems (systems which often pre-date the merger of the three U S WEST carriers).

ATTACHMENT

Blockbuster A Fit In Japan

Blockbuster Video hopes to cash in on a craving for home entertainment in Japan. Blockbuster, which has opened 32 stores in Japan in the past five years, is preparing for an aggressive new campaign there. By the end of 1998 it plans to have up to 150 stores in the country. With its clean, well-organized stores, which are run as a joint venture with Fujita and Co., Blockbuster is billed as a welcome alternative to Japan's typically dingy, cramped video outlets. Success in Japan could be a boost for Blockbuster as it faces a saturated market and heated competition from discounters in the United States. (305/832-3250)

TCI, Request Add 30 Channels

Tele-Communications Inc. [TCOMA] and its partly owned Request Television operation have agreed to distribute 30 additional pay-per-view channels to provide near video-on-demand services to cable operators and other multichannel systems. The new channels greatly expand Request's offerings from its current menu of five, but require new digital-cable boxes that aren't expected to be widely available for several years. TCI said the additional channels will first appear in its Hartford, Conn., market beginning Oct. 20, and would spread to other markets as it installs the digital boxes. The additional PPV channels will be compressed using General Instrument [GIC] MPEG II compression technology. (Sheila Feren for Request, 212/983-9898)

TWC DreamShop Expanding

Connect Inc., which provides Internet-based interactive commerce and order management applications, is joining with Time Warner Cable [TWX] to create what the partners are calling "the next generation of online shopping." The new application will combine Connect software with Time Warner Cable custom-developed interactive commerce technology and will be used for DreamShop, Time Warner Cable's multiplatform, interactive shopping service. Connect's software platform will serve as the core technology for an expanded version of DreamShop, to be delivered over the Internet and direct to homes via cable modem. DreamShop is now available on Time Warner's Pathfinder World Wide Web site, its Full Service Network in Orlando, Fla., and its LineRunner PC cable service test in Elmira, N.Y. (James Strobecker/Penelope Low for Connect Inc., 415/254-4862)

TCI Seeking ITV Usage Data

Tele-Communications Inc. [TCOMA], seeking to maximize ad revenue, will implement a system that tracks subscriber usage of interactive television services. TCI's SummiTrak system will be used to track viewing habits for cable television, on-line services, Internet and telephony delivery. It also will be used as an aid in ad insertion and, eventually, audience measurement. Advertisers will be provided with aggregate data combining local and national purchase rates, segmentable by criteria that includes time of day and region. SummiTrak is being built by Sybase Inc, Neuron Data Inc. and Arrowsmith Technologies Inc. (TCI, 303/267-5500)

Canal Plus Eyes Belgium

Canal Plus, the French-based broadcasting group which last month launched a 20-channel digital TV service in France, said yesterday it hopes to launch a similar service in Belgium by the end of the year. *Jean-Claude Paris*, vice-president of Canal Plus Belgique, said negotiations were under way with 20 local cable TV distribution companies in the French-speaking part of Belgium. He hoped to reach agreement by the summer. Paris said a digital service could use the cable companies' existing coaxial cable network, except in certain areas where aging cables would have to be replaced--unlike in France, where the service is broadcast via the Astra 1E satellite and subscribers need a satellite dish.

Zenith Touts Interactive TVs

Zenith Electronics Corp. has launched two interactive television sets featuring NetVision Internet-access network appliance software start-up Diba Inc. The sets are a 27-inch Zenith brand model and a 35-inch entertainment machine under Zenith's new high-end Inteq brand. Diba's interactive software gives the sets the capability to support services that include browsing the World Wide Web, accessing electronic mail and running future Java terminal applications. The 27-inch set comes with Zenith's Z-Trak trackball infra-red remote control and an optional wireless keyboard is available. It has a built-in 28.8-Kbps telephone modem and is expected to sell for $1,000 this fall. The high-end Inteq will be offered at $3,500.

Cable Subs Get New Remotes

Time Warner Cable [TWX] subscribers in Tampa Bay, Fla., will be the first customers of the nation's second-largest MSO to use the latest generation of the company's remote control units. The new remote technology, will allow channel surfers to find out immediately what's playing on any channel, even during a commercial. A click of a button produces a brief synopsis of the show at the bottom of the screen. In some instances, a movie's description includes the names of stars, plus the plot, rating and length. The new remote also gives a viewer access to an on-screen guide that lists program schedules for up to 79 channels over a four-hour period. And the viewer can immediately switch to any ongoing program with a click of a button. (Time Warner Cable, 203-328-0600)

Dutch Digital Partnership Set

Koninklijke PTT Nederland NV, Philips Electronics NV (KPN) and pay television company NetHold plan to set up a partnership for introducing digital pay-per-view television in the Benelux countries, according to Dutch and international media reports. Sources close to the talks expect Philips and KPN to take a 10 pct stake each in NetHold Benelux, with NetHold in return taking over TeleSelect, the KPN/Philips pay-TV joint venture which operates in Utrecht, The Hague and Amsterdam, according to reports. Philips confirmed that the 14,000 TeleSelect subscribers would be transferred to NetHold.

Briefly Noted ...

U S West [USW] is teaming up with 17 Flemish cable-TV companies and a consortium of investors to create a sophisticated broadband telecoms network for Flanders, involving investment of $1.2 billion over 15 years. -- -- Sigma Designs Inc. [SIGM], which makes MPEG interactive multimedia components, said IBM is using its REALmagic Pro chipset in a new IBM MPEG playback board accessory that provides full-motion video capability as an optional upgrade for IBM Aptiva, PC300 and PC700 computers. (Lauren Finkelman for Sigma Designs, 847/291-1616 ext. 249)

CERTIFICATE OF SERVICE

I, Lea Ann M. Hauck, do hereby certify that on this 26th day of June, 1996, I have caused a copy of the foregoing **U S WEST INC.'S REPLY COMMENTS** to be served via first-class United States Mail, postage prepaid, upon the persons listed on the attached service list.

Lea Ann M. Hauck

Lea Ann M. Hauck

***Via Hand-Delivery**

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